

AMENDED IN ASSEMBLY APRIL 14, 2011

AMENDED IN ASSEMBLY APRIL 6, 2011

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 641**

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**Introduced by Assembly Member Feuer**

February 16, 2011

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An act to amend Sections 1423, 1424, 1424.5, 1428, 1428.2, and 1429 of, and to repeal Section 1417.5 of, the Health and Safety Code, relating to long-term health care facilities.

### LEGISLATIVE COUNSEL'S DIGEST

AB 641, as amended, Feuer. Long-term health care facilities: civil penalties.

The existing Long-Term Care, Health, Safety, and Security Act of 1973 establishes an inspection and reporting system and a provisional licensing mechanism, administered by the State Department of Public Health, to ensure that long-term health care facilities, as defined, are in compliance with state statutes, regulations, and federal standards pertaining to patient care. The act requires the department, if it determines that a violation of any state or federal law or regulation relating to the operation or maintenance of the facility warrants the issuance of a citation, to take specified actions regarding federal enforcement remedies and citations. The act prohibits the issuance of both a citation pursuant to state laws and the recommendation that a federal civil monetary penalty be imposed.

This bill would delete this prohibition.

The act establishes a citation and appeals process, that includes a citation review conference. The act also makes a class “B” citation subject to a civil penalty in an amount not less than \$100 and not exceeding \$1,000 for each and every citation. Existing law creates the State Health Facilities Citation Penalties Account in the Special Deposit Fund with the moneys in this account to be used, upon appropriation, for prescribed purposes.

This bill would repeal the citation review conference process and make conforming changes. It would also increase the maximum of a class “B” citation to \$5,000.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 1417.5 of the Health and Safety Code is  
2     repealed.  
3     SEC. 2. Section 1423 of the Health and Safety Code is amended  
4     to read:  
5     1423. (a) If upon inspection or investigation the director  
6     determines that any nursing facility is in violation of any state or  
7     federal law or regulation relating to the operation or maintenance  
8     of the facility, or determines that any other long-term health care  
9     facility is in violation of any statutory provision or regulation  
10    relating to the operation or maintenance of the facility, the director  
11    shall promptly, but not later than 24 hours, excluding Saturday,  
12    Sunday, and holidays, after the director determines or has  
13    reasonable cause to determine that an alleged violation has  
14    occurred, issue a notice to correct the violation and of intent to  
15    issue a citation to the licensee. Before completing the investigation  
16    and making the determination whether to issue a citation, the  
17    department shall hold an exit conference with the licensee to  
18    identify the potential for issuing a citation for any violation, discuss  
19    investigative findings, and allow the licensee to provide the  
20    department with additional information related to the violation.  
21    The department shall consider this additional information, in  
22    conjunction with information from the inspection or investigation,  
23    in determining whether to issue a citation, or whether other action  
24    would be appropriate. If the department determines that the

1 violation warrants the issuing of a citation and an exit conference  
2 has been completed it shall either:

3 (1) Recommend the imposition of a federal enforcement remedy  
4 or remedies on a nursing facility in accordance with federal law;  
5 or

6 (2) Issue a citation pursuant to state licensing laws, and if the  
7 facility is a nursing facility, may recommend the imposition of a  
8 ~~federal enforcement remedy other than a federal civil monetary~~  
9 ~~penalty for a federal violation.~~ *federal enforcement remedy.*

10 A state citation shall be served upon the licensee within three  
11 days after completion of the investigation, excluding Saturday,  
12 Sunday, and holidays, unless the licensee agrees in writing to an  
13 extension of time. Service shall be effected either personally or  
14 by registered or certified mail. A copy of the citation shall also be  
15 sent to each complainant. Each citation shall be in writing and  
16 shall describe with particularity the nature of the violation,  
17 including a reference to the statutory provision, standard, rule or  
18 regulation alleged to have been violated, the particular place or  
19 area of the facility in which it occurred, as well as the amount of  
20 any proposed assessment of a civil penalty. The name of any patient  
21 jeopardized by the alleged violation shall not be specified in the  
22 citation in order to protect the privacy of the patient. However, at  
23 the time the licensee is served with the citation, the licensee shall  
24 also be served with a written list of each of the names of the  
25 patients alleged to have been jeopardized by the violation, that  
26 shall not be subject to disclosure as a public record. The citation  
27 shall fix the earliest feasible time for the elimination of the  
28 condition constituting the alleged violation, when appropriate.

29 (b) Where no harm to patients, residents, or guests has occurred,  
30 a single incident, event, or occurrence shall result in no more than  
31 one citation for each statute or regulation violated.

32 (c) No citation shall be issued for a violation that has been  
33 reported by the licensee to the state department, or its designee,  
34 as an “unusual occurrence,” if all of the following conditions are  
35 met:

36 (1) The violation has not caused harm to any patient, resident,  
37 or guest, or significantly contributed thereto.

38 (2) The licensee has promptly taken reasonable measures to  
39 correct the violation and to prevent a recurrence.

1 (3) The unusual occurrence report was the first source of  
2 information reported to the state department, or its designee,  
3 regarding the violation.

4 SEC. 3. Section 1424 of the Health and Safety Code is amended  
5 to read:

6 1424. Citations issued pursuant to this chapter shall be  
7 classified according to the nature of the violation and shall indicate  
8 the classification on the face thereof.

9 (a) In determining the amount of the civil penalty, all relevant  
10 facts shall be considered, including, but not limited to, the  
11 following:

12 (1) The probability and severity of the risk that the violation  
13 presents to the patient's or resident's mental and physical condition.

14 (2) The patient's or resident's medical condition.

15 (3) The patient's or resident's mental condition and his or her  
16 history of ~~menal~~ *mental* disability or disorder.

17 (4) The good faith efforts exercised by the facility to prevent  
18 the violation from occurring.

19 (5) The licensee's history of compliance with regulations.

20 (b) Relevant facts considered by the department in determining  
21 the amount of the civil penalty shall be documented by the  
22 department on an attachment to the citation and available in the  
23 public record. This requirement shall not preclude the department  
24 or a facility from introducing facts not listed on the citation to  
25 support or challenge the amount of the civil penalty in any  
26 proceeding set forth in Section 1428.

27 (c) Class "AA" violations are violations that meet the criteria  
28 for a class "A" violation and that the state department determines  
29 to have been a direct proximate cause of death of a patient or  
30 resident of a long-term health care facility. Except as provided in  
31 Section 1424.5, a class "AA" citation is subject to a civil penalty  
32 in the amount of not less than five thousand dollars (\$5,000) and  
33 not exceeding twenty-five thousand dollars (\$25,000) for each  
34 citation. In any action to enforce a citation issued under this  
35 subdivision, the state department shall prove all of the following:

36 (1) The violation was a direct proximate cause of death of a  
37 patient or resident.

38 (2) The death resulted from an occurrence of a nature that the  
39 regulation was designed to prevent.

1 (3) The patient or resident suffering the death was among the  
2 class of persons for whose protection the regulation was adopted.

3 If the state department meets this burden of proof, the licensee  
4 shall have the burden of proving that the licensee did what might  
5 reasonably be expected of a long-term health care facility licensee,  
6 acting under similar circumstances, to comply with the regulation.  
7 If the licensee sustains this burden, then the citation shall be  
8 dismissed.

9 Except as provided in Section 1424.5, for each class "AA"  
10 citation within a 12-month period that has become final, the state  
11 department shall consider the suspension or revocation of the  
12 facility's license in accordance with Section 1294. For a third or  
13 subsequent class "AA" citation in a facility within that 12-month  
14 period that has been sustained ~~following a citation review~~  
15 ~~conference~~, the state department shall commence action to suspend  
16 or revoke the facility's license in accordance with Section 1294.

17 (d) Class "A" violations are violations which the state  
18 department determines present either (1) imminent danger that  
19 death or serious harm to the patients or residents of the long-term  
20 health care facility would result therefrom, or (2) substantial  
21 probability that death or serious physical harm to patients or  
22 residents of the long-term health care facility would result  
23 therefrom. A physical condition or one or more practices, means,  
24 methods, or operations in use in a long-term health care facility  
25 may constitute a class "A" violation. The condition or practice  
26 constituting a class "A" violation shall be abated or eliminated  
27 immediately, unless a fixed period of time, as determined by the  
28 state department, is required for correction. Except as provided in  
29 Section 1424.5, a class "A" citation is subject to a civil penalty in  
30 an amount not less than one thousand dollars (\$1,000) and not  
31 exceeding ten thousand dollars (\$10,000) for each and every  
32 citation.

33 If the state department establishes that a violation occurred, the  
34 licensee shall have the burden of proving that the licensee did what  
35 might reasonably be expected of a long-term health care facility  
36 licensee, acting under similar circumstances, to comply with the  
37 regulation. If the licensee sustains this burden, then the citation  
38 shall be dismissed.

39 (e) Class "B" violations are violations that the state department  
40 determines have a direct or immediate relationship to the health,

1 safety, or security of long-term health care facility patients or  
2 residents, other than class “AA” or “A” violations. Unless  
3 otherwise determined by the state department to be a class “A”  
4 violation pursuant to this chapter and rules and regulations adopted  
5 pursuant thereto, any violation of a patient’s rights as set forth in  
6 Sections 72527 and 73523 of Title 22 of the California Code of  
7 Regulations, that is determined by the state department to cause  
8 or under circumstances likely to cause significant humiliation,  
9 indignity, anxiety, or other emotional trauma to a patient is a class  
10 “B” violation. A class “B” citation is subject to a civil penalty in  
11 an amount not less than one hundred dollars (\$100) and not  
12 exceeding five thousand dollars (\$5,000) for each and every  
13 citation. A class “B” citation shall specify the time within which  
14 the violation is required to be corrected. If the state department  
15 establishes that a violation occurred, the licensee shall have the  
16 burden of proving that the licensee did what might reasonably be  
17 expected of a long-term health care facility licensee, acting under  
18 similar circumstances, to comply with the regulation. If the licensee  
19 sustains this burden, then the citation shall be dismissed.

20 In the event of any citation under this paragraph, if the state  
21 department establishes that a violation occurred, the licensee shall  
22 have the burden of proving that the licensee did what might  
23 reasonably be expected of a long-term health care facility licensee,  
24 acting under similar circumstances, to comply with the regulation.  
25 If the licensee sustains this burden, then the citation shall be  
26 dismissed.

27 (f) (1) Any willful material falsification or willful material  
28 omission in the health record of a patient of a long-term health  
29 care facility is a violation.

30 (2) “Willful material falsification,” as used in this section, means  
31 any entry in the patient health care record pertaining to the  
32 administration of medication, or treatments ordered for the patient,  
33 or pertaining to services for the prevention or treatment of  
34 decubitus ulcers or contractures, or pertaining to tests and  
35 measurements of vital signs, or notations of input and output of  
36 fluids, that was made with the knowledge that the records falsely  
37 reflect the condition of the resident or the care or services provided.

38 (3) “Willful material omission,” as used in this section, means  
39 the willful failure to record any untoward event that has affected  
40 the health, safety, or security of the specific patient, and that was

1 omitted with the knowledge that the records falsely reflect the  
2 condition of the resident or the care or services provided.

3 (g) Except as provided in subdivision (a) of Section 1425.5, a  
4 violation of subdivision (f) may result in a civil penalty not to  
5 exceed ten thousand dollars (\$10,000), as specified in paragraphs  
6 (1) to (3), inclusive.

7 (1) The willful material falsification or willful material omission  
8 is subject to a civil penalty of not less than two thousand five  
9 hundred dollars (\$2,500) or more than ten thousand dollars  
10 (\$10,000) in instances where the health care record is relied upon  
11 by a health care professional to the detriment of a patient by  
12 affecting the administration of medications or treatments, the  
13 issuance of orders, or the development of plans of care. In all other  
14 cases, violations of this subdivision are subject to a civil penalty  
15 not exceeding two thousand five hundred dollars (\$2,500).

16 (2) Where the penalty assessed is one thousand dollars (\$1,000)  
17 or less, the violation shall be issued and enforced, except as  
18 provided in this subdivision, in the same manner as a class "B"  
19 violation, and shall include the right of appeal as specified in  
20 Section 1428. Where the assessed penalty is in excess of one  
21 thousand dollars (\$1,000), or for skilled nursing facilities or  
22 intermediate care facilities as specified in paragraphs (1) and (2)  
23 of subdivision (a) of Section 1418, in excess of two thousand  
24 dollars (\$2,000), the violation shall be issued and enforced, except  
25 as provided in this subdivision, in the same manner as a class "A"  
26 violation, and shall include the right of appeal as specified in  
27 Section 1428.

28 Nothing in this section shall be construed as a change in previous  
29 law enacted by Chapter 11 of the Statutes of 1985 relative to this  
30 paragraph, but merely as a clarification of existing law.

31 (3) Nothing in this subdivision shall preclude the state  
32 department from issuing a class "A" or class "B" citation for any  
33 violation that meets the requirements for that citation, regardless  
34 of whether the violation also constitutes a violation of this  
35 subdivision. However, no single act, omission, or occurrence may  
36 be cited both as a class "A" or class "B" violation and as a violation  
37 of this subdivision.

38 (h) Where the licensee has failed to post the notices as required  
39 by Section 9718 of the Welfare and Institutions Code in the manner  
40 required under Section 1422.6, the state department shall assess

1 the licensee a civil penalty in the amount of one hundred dollars  
2 (\$100) for each day the failure to post the notices continues. Where  
3 the total penalty assessed is less than two thousand dollars (\$2,000),  
4 the violation shall be issued and enforced in the same manner as  
5 a class “B” violation, and shall include the right of appeal as  
6 specified in Section 1428. Where the assessed penalty is equal to  
7 or in excess of two thousand dollars (\$2,000), the violation shall  
8 be issued and enforced in the same manner as a class “A” violation  
9 and shall include the right of appeal as specified in Section 1428.  
10 Any fines collected pursuant to this subdivision shall be used to  
11 fund the costs incurred by the California Department of Aging in  
12 producing and posting the posters.

13 (i) The director shall prescribe procedures for the issuance of a  
14 notice of violation with respect to violations having only a minimal  
15 relationship to patient safety or health.

16 (j) The department shall provide a copy of all citations issued  
17 under this section to the affected residents whose treatment was  
18 the basis for the issuance of the citation, to the affected residents’  
19 designated family member or representative of each of the  
20 residents, and to the complainant if the citation was issued as a  
21 result of a complaint.

22 (k) Nothing in this section is intended to change existing  
23 statutory or regulatory requirements governing the ability of a  
24 licensee to contest a citation pursuant to Section 1428.

25 (l) The department shall ensure that district office activities  
26 performed under Sections 1419 to 1424, inclusive, are consistent  
27 with the requirements of these sections and all applicable laws and  
28 regulations. To ensure the integrity of these activities, the  
29 department shall establish a statewide process for the collection  
30 of postsurvey evaluations from affected facilities.

31 SEC. 4. Section 1424.5 of the Health and Safety Code is  
32 amended to read:

33 1424.5. (a) In lieu of the fines specified in subdivisions (c),  
34 (d), and (e) of Section 1424, fines imposed on skilled nursing  
35 facilities or intermediate care facilities, as specified in paragraphs  
36 (1) and (2) of subdivision (a) of Section 1418, shall be as follows:

37 (1) A class “AA” citation is subject to a civil penalty in an  
38 amount not less than twenty-five thousand dollars (\$25,000) and  
39 not exceeding one hundred thousand dollars (\$100,000) for each  
40 and every citation. For a second or subsequent class “AA” citation



1 in a skilled nursing facility or intermediate care facility within a  
2 24-month period, the state department shall commence action to  
3 suspend or revoke the facility's license in accordance with Section  
4 1294.

5 (2) A class "A" citation is subject to a civil penalty in an amount  
6 not less than two thousand dollars (\$2,000) and not exceeding  
7 twenty thousand dollars (\$20,000) for each and every citation.

8 (3) Any "willful material falsification" or "willful material  
9 omission," as those terms are defined in subdivision (f) of Section  
10 1424, in the health record of a resident is subject to a civil penalty  
11 in an amount not less than two thousand dollars (\$2,000) and not  
12 exceeding twenty thousand dollars (\$20,000) for each and every  
13 citation.

14 (b) A licensee may, in lieu of contesting a class "AA" or class  
15 "A" citation pursuant to Section 1428, transmit to the state  
16 department, the minimum amount specified by law, or 65 percent  
17 of the amount specified in the citation, whichever is greater, for  
18 each violation, within 30 business days after the issuance of the  
19 citation.

20 SEC. 5. Section 1428 of the Health and Safety Code is amended  
21 to read:

22 1428. (a) If the licensee desires to contest a citation or the  
23 proposed assessment of a civil penalty therefor, the licensee shall  
24 use the processes described in subdivisions (b) and (c) for classes  
25 "AA," "A," or "B" citations.

26 (b) If a licensee intends to contest a class "AA" or a class "A"  
27 citation, the licensee shall inform the director in writing, within  
28 15 business days of the service of the citation of the licensee's  
29 intent to adjudicate the validity of the citation in the superior court  
30 in the county in which the long-term health care facility is located.  
31 In order to perfect a judicial appeal of a contested citation, a  
32 licensee shall file a civil action in the superior court in the county  
33 in which the long-term health care facility is located. The action  
34 shall be filed no later than 90 calendar days after a licensee notifies  
35 the director that he or she intends to contest the citation, and served  
36 not later than 90 days after filing. Notwithstanding any other  
37 provision of law, a licensee prosecuting a judicial appeal shall file  
38 and serve a case management statement pursuant to Rule 212 of  
39 the California Rules of Court within six months after the  
40 department files its answer in the appeal. Notwithstanding

1 subdivision (d), the court shall dismiss the appeal upon motion of  
2 the department if the case management statement is not filed by  
3 the licensee within the period specified. The court may affirm,  
4 modify, or dismiss the citation, the level of the citation, or the  
5 amount of the proposed assessment of the civil penalty.

6 (c) If a licensee desires to contest a class “B” citation, the  
7 licensee shall, within 15 working days after service of the citation,  
8 notify the director or the director’s designee that he or she wishes  
9 to appeal the citation through the procedures set forth in Section  
10 100171 or elects to submit the matter to binding arbitration in  
11 accordance with subdivision (d). The administrative law judge  
12 may affirm, modify, or dismiss the citation or the proposed  
13 assessment of a civil penalty. The licensee may choose to have his  
14 or her appeal heard by the administrative law judge or submit the  
15 matter to binding arbitration by notifying the director in writing  
16 within 15 business days of the service of the citation.

17 (d) If a licensee is dissatisfied with the decision of the  
18 administrative law judge, the licensee may, in lieu of seeking  
19 judicial review of the decision as provided in Section 1094.5 of  
20 the Code of Civil Procedure, elect to submit the matter to binding  
21 arbitration by filing, within 60 days of its receipt of the decision,  
22 a request for arbitration with the American Arbitration Association.  
23 The parties shall agree upon an arbitrator designated from the  
24 American Arbitration Association in accordance with the  
25 association’s established rules and procedures. The arbitration  
26 hearing shall be set within 45 days of the election to arbitrate, but  
27 in no event less than 28 days from the date of selection of an  
28 arbitrator. The arbitration hearing may be continued up to 15  
29 additional days if necessary at the arbitrator’s discretion. Except  
30 as otherwise specifically provided in this subdivision, the  
31 arbitration hearing shall be conducted in accordance with the  
32 American Arbitration Association’s established rules and  
33 procedures. The arbitrator shall determine whether the licensee  
34 violated the regulation or regulations cited by the department, and  
35 whether the citation meets the criteria established in Sections 1423  
36 and 1424. If the arbitrator determines that the licensee has violated  
37 the regulation or regulations cited by the department, and that the  
38 class of the citation should be upheld, the proposed assessment of  
39 a civil penalty shall be affirmed, subject to the limitations  
40 established in Section 1424. The licensee and the department shall

1 each bear its respective portion of the cost of arbitration. A resident,  
2 or his or her designated representative, or both, may make an oral  
3 or written statement regarding the citation, at any arbitration  
4 hearing to which the matter has been submitted.

5 (e) If an appeal is prosecuted under this section, including an  
6 appeal taken in accordance with Section 100171, the department  
7 shall have the burden of establishing by a preponderance of the  
8 evidence that (1) the alleged violation did occur, (2) the alleged  
9 violation met the criteria for the class of citation alleged, and (3)  
10 the assessed penalty was appropriate. The department shall also  
11 have the burden of establishing by a preponderance of the evidence  
12 that the assessment of a civil penalty should be upheld. If a licensee  
13 appeals a contested citation or the assessment of a civil penalty,  
14 no civil penalty shall be due and payable unless and until the appeal  
15 is terminated in favor of the department.

16 (f) In assessing the civil penalty for a violation, all relevant facts  
17 shall be considered, including, but not limited to, all of the  
18 following:

19 (1) The probability and severity of the risk which the violation  
20 presents to the patient's or resident's mental and physical condition.

21 (2) The patient's or resident's medical condition.

22 (3) The patient's or resident's mental condition and his or her  
23 history of mental disability.

24 (4) The good faith efforts exercised by the facility to prevent  
25 the violation from occurring.

26 (5) The licensee's history of compliance with regulations.

27 (g) Except as otherwise provided in this subdivision, an  
28 assessment of civil penalties for a class "A" or class "B" violation  
29 shall be trebled and collected for a second and subsequent violation  
30 for which a citation of the same class was issued within any  
31 12-month period. Trebling shall occur only if the first citation  
32 issued within the 12-month period was issued in the same class, a  
33 civil penalty was assessed, and a plan of correction was submitted  
34 for the previous same-class violation occurring within the period,  
35 without regard to whether the action to enforce the previous citation  
36 has become final. However, the increment to the civil penalty  
37 required by this subdivision shall not be due and payable unless  
38 and until the previous action has terminated in favor of the  
39 department.

1 If the class “B” citation is issued for a patient’s rights violation,  
2 as defined in subdivision (e) of Section 1424, it shall not be trebled  
3 unless the department determines the violation has a direct or  
4 immediate relationship to the health, safety, security, or welfare  
5 of long-term health care facility residents.

6 (h) The director shall prescribe procedures for the issuance of  
7 a notice of violation with respect to violations having only a  
8 minimal relationship to safety or health.

9 (i) Actions brought under this chapter shall be set for trial at the  
10 earliest possible date and shall take precedence on the court  
11 calendar over all other cases except matters to which equal or  
12 superior precedence is specifically granted by law. Times for  
13 responsive pleading and for hearing the proceeding shall be set by  
14 the judge of the court with the object of securing a decision as to  
15 subject matters at the earliest possible time.

16 (j) If the citation is dismissed, the department shall take action  
17 immediately to ensure that the public records reflect in a prominent  
18 manner that the citation was dismissed.

19 (k) Penalties paid on violations under this chapter shall be  
20 applied against the department’s accounts to offset any costs  
21 incurred by the state pursuant to this chapter. Any costs or penalties  
22 assessed pursuant to this chapter shall be paid within 30 days of  
23 the date the decision becomes final. If a facility does not comply  
24 with this requirement, the state department shall withhold any  
25 payment under the Medi-Cal program until the debt is satisfied.  
26 No payment shall be withheld if the department determines that it  
27 would cause undue hardship to the facility or to patients or  
28 residents of the facility.

29 (l) The amendments made to subdivisions (a) and (c) of this  
30 section by Chapter 84 of the Statutes of 1988, to extend the number  
31 of days allowed for the provision of notification to the director,  
32 do not affect the right, that is also contained in those amendments,  
33 to request judicial relief from these time limits.

34 (m) If a licensee exercises its right to a citation review  
35 conference prior to January 1, 2012, the citation review conference  
36 and all notices, reviews, and appeals thereof shall be conducted  
37 pursuant to this section as it read on December 31, 2011.

38 SEC. 6. Section 1428.2 of the Health and Safety Code is  
39 amended to read:

1428.2. In the case of a class “A” or class “AA” citation issued to a long-term health care facility which is appealed, the citation shall expire and have no further legal effect, if the Attorney General has not filed an action in the court of competent jurisdiction, within one year from the date the facility notifies the State Department of Public Health of its intent to contest the citation in court.

SEC. 7. Section 1429 of the Health and Safety Code is amended to read:

1429. (a) Each class “AA” and class “A” citation specified in subdivisions (c) and (d) of Section 1424 that is issued, or a copy or copies thereof, shall be prominently posted for 120 days. The citation or copy shall be posted in a place or places in plain view of the patients or residents in the long-term health care facility, persons visiting those patients or residents, and persons who inquire about placement in the facility.

(1) The citation shall be posted in at least the following locations in the facility:

(A) An area accessible and visible to members of the public.

(B) An area used for employee breaks.

(C) An area used by residents for communal functions, such as dining, resident council meetings, or activities.

(2) The citation, along with a cover sheet, shall be posted on a white or light-colored sheet of paper, at least 8½ by 11 inches in size, that includes all of the following information:

(A) The full name of the facility, in a clear and easily readable font in at least 28-point type.

(B) The full address of the facility, in a clear and easily readable font in at least 20-point type.

(C) Whether the citation is class “AA” or class “A.”

(3) The facility may post the plan of correction.

(4) The facility may post a statement disputing the citation or a statement showing the appeal status, or both.

(5) The facility may remove and discontinue the posting required by this section if the citation is withdrawn or dismissed by the department.

(b) Each class “B” citation specified in subdivision (e) of Section 1424 that is issued pursuant to this section and that has become final, or a copy or copies thereof, shall be retained by the licensee at the facility cited until the violation is corrected to the satisfaction of the department. Each citation shall be made promptly available

1 by the licensee for inspection or examination by any member of  
2 the public who so requests. In addition, every licensee shall post  
3 in a place or places in plain view of the patient or resident in the  
4 long-term health care facility, persons visiting those patients or  
5 residents, and persons who inquire about placement in the facility,  
6 a prominent notice informing those persons that copies of all final  
7 uncorrected citations issued by the department to the facility will  
8 be made promptly available by the licensee for inspection by any  
9 person who so requests.

10 (c) A violation of this section shall constitute a class “B”  
11 violation, and shall be subject to a civil penalty in the amount of  
12 one thousand dollars (\$1,000), as provided in subdivision (e) of  
13 Section 1424. Notwithstanding Section 1290, a violation of this  
14 section shall not constitute a crime. Fines imposed pursuant to this  
15 section shall be deposited into the State Health Facilities Citation  
16 Penalties Account, created pursuant to Section 1417.2.